

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House  
(317) 232-9855

**FISCAL IMPACT STATEMENT**

**LS 7807**

**BILL NUMBER: HB 1543**

**DATE PREPARED:** Jan 30, 2001

**BILL AMENDED:**

**SUBJECT:** Agricultural Marketing and Bargaining Act.

**FISCAL ANALYST:** Bernadette Bartlett

**PHONE NUMBER:** 232-9586

**FUNDS AFFECTED:** X

**GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State

**Summary of Legislation:** This bill establishes the Agricultural Marketing and Bargaining Act. The bill creates the Agricultural Marketing and Bargaining Board within the Office of the Commissioner of Agriculture. It provides for cooperative agricultural marketing and bargaining. This bill also provides for the administration and enforcement of the Agricultural Marketing and Bargaining Act. It also creates a review process for awards made by the Agricultural Marketing and Bargaining Board.

**Effective Date:** July 1, 2001.

**Explanation of State Expenditures:** The Agricultural Marketing and Bargaining Board is established within the Office of the Commissioner of Agriculture. The board consists of five individuals appointed by the Governor. Each member of the board who is neither a state employee nor otherwise being compensated for service is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Members are also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The Office of the Commissioner of Agriculture shall provide the necessary staff and administrative support for the board. The Office of the Commissioner of Agriculture may adopt rules under IC 4-22-2 to implement the proposal. These provisions will increase expenses for the Office of the Commissioner. The Office should be able to absorb these costs given its current budget.

The board may make all necessary investigations, examinations, or inspections of any violation or threatened violation specified in the sworn complaint filed with the board. If after investigation, the board considers that there is reasonable cause to believe that a person charged has committed a violation, the board must issue and cause to be served a complaint upon the person. The complaint summons the person to a hearing before the board, a member of the board, or a hearing officer.

If it is determined that the person has committed a practice that constitutes a violation, the board must state its findings of fact and issue and serve on the person an order requiring the person to cease the violation. The board may petition any circuit court for the enforcement of its orders and for appropriate temporary relief

or restraining order and must file in the court the record in the proceedings.

The board shall determine whether a proposed bargaining unit is appropriate. This determination is made upon the petition of an association representing not less than 10% of the producers of the commodity eligible for membership in the proposed bargaining unit as defined by the association. The board must hold a public hearing in accordance to resolve disputes. Producers of record involved in the bargaining unit must be notified of the hearing by mail and publication in a newspaper of general circulation in the bargaining unit area at least ten days before the date of the hearing. The board must issue and publish its determination not later than 30 days after the close of the hearing. The board must determine by a mail referendum of bargaining unit producers not later than 30 days after receiving the petition if producers assent to the accreditation of the association. All affected producers, handlers, and other interested parties must be notified of the outcome of the referendum not later than ten days after the completion of the referendum.

An accredited association must file an annual report with the board in the form and manner required by the board. The board shall review each annual report to determine if the association that filed the report continues to meet the requirements. To revoke the accreditation of an accredited association the board must employ a procedure similar to the accreditation procedure.

Upon the request of an accredited association or upon the request of a handler, the board must provide for the mediation of an issue in dispute. The board must take steps to create a voluntary, amicable, and expeditious adjustment and settlement of the differences between the association and the handler. The expense of the proceedings, including a fee to the chair, established in advance by the board shall be borne equally by each of the parties to the dispute and the state.

Expenses associated with implementing the above are indeterminable, but will depend on the number and nature of disputes brought before the board.

Additional information will be provided when it becomes available.

**Explanation of State Revenues:** An association desiring accreditation must file with the board a written request for accreditation in the form required by the board. A fee to cover the board's costs in processing the request must be established by the rules of the board and paid by the association when the request is filed. The impact of this provision is indeterminable and will depend on the number of requests filed.

A party who willfully disobeys a court order or willfully encourages or offers resistance to an order is in contempt. The punishment for each day the contempt continues may be a fine fixed by the court in an amount not to exceed \$500 per day. Fines are deposited in the State General Fund.

**Explanation of Local Expenditures:** A person aggrieved by a final order of the board granting or denying in whole or in part the relief sought may obtain a review of an order in the court of appeals, by filing in the court a written petition requesting that the order of the board be modified or set aside. The clerk of the circuit court must transmit a copy of the petition to the board and the aggrieved party shall file in the court the record in the proceeding certified by the board. These provisions will increase administrative expenses for circuit courts. The courts, however, should be able to absorb any additional expenses.

**Explanation of Local Revenues:**

**State Agencies Affected:** Office of the Commissioner of Agriculture and the Court of Appeals.

**Local Agencies Affected:** Circuit Courts.

**Information Sources:** Joe Pearson, Commissioner of Agriculture.